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Consideration of reports of States parties

List of issues in relation to the report submitted by Tajikistan under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Addendum

Replies of Tajikistan to the list of issues*

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* The present document is being issued without formal editing.

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Replies

To the list of issues in relation to the initial report of Tajikistan on measures taken to implement the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Question 1

1. The following provisions have been introduced in the Criminal Code in order to implement the Optional Protocol in Tajikistan:

- Article 130[2]. Use of slave labour (section 2 (c) concerning minors);
- Article 131. Unlawful deprivation of liberty (section 2 (e) concerning minors);
- Article 132. Recruitment of persons for exploitation (section 2 (b) concerning minors);
- Article 138. Rape (of minors, section 2 (e) and of persons under 14 years of age, section 3 (a));
- Article 139. Violent acts of a sexual nature (section 2 (e) perpetrated against minors and section 4 (a) against persons under 14 years of age);
- Article 141. Sexual intercourse and other acts of a sexual nature with a person under 16 years of age;
- Article 142[1]. Sexual intercourse, other acts of a sexual nature or depraved acts abusing feelings and religious beliefs (section 2 concerning minors);
- Article 143[1]. Torture (of minors, section 2 (c));
- Article 166. Involving a minor in the commission of antisocial acts;
- Article 168. Giving in marriage of a girl below the minimum age of marriage;
- Article 169. Contracting marriage with a person under the minimum age of marriage;
- Article 172. Unlawful adoption.

2. The Act on combating trafficking in persons and providing assistance to victims of trafficking in persons was adopted in 2014. It provides special safeguards for victims of crimes and other offences related to trafficking in persons.

- Particular arrangements are made for questioning (interviewing) victims that take account of their psychological state, the nature and severity of the offences committed against them and the severity of the harm done to them.
- Unlawful acts committed qua victims of trafficking in persons do not entail administrative or criminal responsibility.
- Information received from victims of crimes and other offences related to trafficking in persons is treated as confidential.
- Cases involving victims of offences related to trafficking in persons are heard *in camera*.
- Special rules apply in order to guarantee victims' safety, including measures for their physical protection, and to ensure the mandatory consideration and settlement of civil claims brought by victims of trafficking in persons under criminal procedural legislation.

3. The legal or other representatives of victims of trafficking in persons must appear in administrative or criminal proceedings in order to protect victims' rights and legitimate interests when, on account of their physical or mental condition, or because they are minors,

they are themselves unable to do so. These representatives are afforded the same rights as the persons whom they represent and in respect of specific categories of children determined by law this also applies to psychologists and, if necessary, teachers.

Question 2

4. Under section 33 (3) of the Act on combating trafficking in persons and providing assistance to victims of trafficking in persons, bodies and organizations responsible for preventing child neglect and juvenile delinquency are obliged, within the limits of their authority, to monitor the rights and legitimate interests of actual and potential child victims of trafficking in persons, to protect them from all forms of discrimination, physical or psychological violence, abuse, ill-treatment, and sexual or other forms of exploitation, and they must immediately report any breaches of the relevant laws which have come to their knowledge in the course of their professional or official duties.

- Procuratorial authorities address violations of the rights and freedoms of child victims of trafficking in persons.
- Children's rights commission address known violations of the rights of child victims of trafficking in persons to education, labour, leisure, housing, et cetera.
- Guardianship and custody bodies identify potential child victims of trafficking in persons, including children without parental care or legal guardians, and those in an environment conducive to their involvement in trafficking in persons.
- Internal affairs agencies identify parents or legal guardians who commit crimes involving children in trafficking in persons.
- Health and social protection authorities identify potential child victims of trafficking in persons who need medical examination, observation or treatment owing to crimes and other offences perpetrated against them in connection with trafficking in persons, as well as those in need of State assistance owing to neglect or homelessness, and they identify families at risk.
- Educational and scientific authorities identify potential child victims of trafficking in persons requiring State assistance because they have absconded from children's homes, boarding schools or other institutions, or play truant from education establishments.
- Youth, sport and tourism authorities identify potential child victims of trafficking in persons who are at risk and therefore need help in organizing recreation, leisure and employment.

5. Under the regulations governing children's rights commissions, approved by a government decision of 25 January 2017, children's rights commissions are established with the aim of fully protecting the rights and legitimate interests of children, including orphans, children without parental care and children requiring State assistance, and of resolving more complex issues related to the observance and protection of the rights and interests of children and the provision of legal, social, material and other forms of assistance to families with children and to children in conflict with the law. To this end, they coordinate the activities of central and local authorities, public bodies, the authorities of self-governing settlements and villages, businesses, institutions and other organizations.

6. In order to improve the quality of statistical information on children without parental care, the Statistics Agency reporting to the President devised and introduced statistics form No. 103-rik for reporting the number of children and adolescents without parental care. This is used to gather information for local authorities that have children's rights units which address custody and guardianship issues. The relevant State bodies submit reports to the Statistics Agency twice a year (biannual and annual reports). The Supreme Court generally submits 18 types of report on judicial statistics to the Statistics Agency.

Question 3

7. Under domestic legislation and the international legal instruments ratified by Tajikistan, child victims of trafficking in persons receive special attention and

comprehensive psychological assistance with their return to normal life. Their ongoing education at secondary specialized and higher education institutions must be ensured.

8. Detailed statistical information on the number of child victims of trafficking in persons is provided in the responses to the list of issues in relation to the combined third to fifth periodic reports of Tajikistan (question 15).

Question 4

9. Between 2014 and 2016, internal affairs agencies conducted a series of investigations which brought to light a number of offences relating to children's rights, of which:

- 7 offences were committed under article 167 of the Criminal Code (trafficking in minors) in 2016 (2015 — 14, 2014 — 9) in the following regions:

  Sughd province — 4 offences (2015 — 3, 2014 — 3);

  Khatlon province — 3 offences (2015 — 7);

  Dushanbe — 0 offences (2015 — 3; 2014 — 1);

  Centrally administered districts — 0 offences (2015 — 1, 2014 — 5);

- 23 offences were committed under article 169 of the Criminal Code (contracting marriage with a person under the minimum age of marriage) in 2016 (2015 — 36, 2014 — 46) in the following regions:

  Sughd province — 6 offences (2015 — 10, 2014 — 16);

  Khatlon province — 11 offences (2015 — 15, 2014 — 16);

  Dushanbe — 2 offences (2015 — 4, 2014 — 3);

  Centrally administered districts — 4 offences (2015 — 7, 2014 — 11);

- 23 offences were committed under article 168 of the Criminal Code (giving in marriage of a girl under the minimum age of marriage) in 2016 (2015 — 93, 2014 — 63) in the following regions:

  Kŭhistoni Badakhshon Autonomous Province — 0 offences (2015 — 0, 2014 — 2);

  Sughd province — 4 offences (2015 — 12, 2014 — 18);

  Khatlon province — 13 offences (2015 — 25, 2014 — 17);

  Dushanbe — 0 offences (2015 — 2, 2014 — 5);

  Centrally administered districts — 5 offences (2015 — 15, 2014 — 21);

- 105 offences were committed under article 141 of the Criminal Code (sexual intercourse and other acts of a sexual nature with a person under 16 years of age) in 2016 (2015 — 110, 2014 — 140) in the following regions:

  Kŭhistoni Badakhshon Autonomous Province — 1 offence (2015 — 1, 2014 — 0);

  Sughd province — 23 offences (2015 — 40, 2014 — 47);

  Khatlon province — 33 offences (2015 — 27, 2014 — 31);

  Dushanbe — 20 offences (2015 — 17, 2014 — 26);

  Centrally administered districts — 28 offences (2015 — 24, 2014 — 35).

10. Detailed information on other measures is presented in the responses to the list of issues in relation to the combined third to fifth periodic reports of Tajikistan.

Question 5

11. Employees of law enforcement agencies and other bodies constantly carry out activities to raise public awareness of legislation prohibiting marriage to minors and to eliminate the practice of giving away in marriage girls of under 18 years of age and

contracting marriage through a nikokh religious ceremony. In 2016 alone, the procuratorial authorities gave 522 public presentations on the issue.

12. The draft national action plan for implementing the recommendations of the member States of the United Nations Human Rights Council provides for a range of measures, including a review of the relevant legislation, under the universal periodic review (second cycle) for 2017-2020.

Question 6

13. Government authorities constantly carry out comprehensive spiritual and ethical educational activities. As part of the steps to implement existing legislation, information campaigns are conducted in educational institutions, public and other places where citizens gather (streets, clubs, cinemas, theatres, etc.) with the involvement of specialists from various levels and institutions, parents and elders. The outcomes are analyzed and on that basis additional precautionary measures are devised to prevent offences committed by minors and young people, including students and school children, and offences against children and minors, as well as to prevent domestic violence, safeguard family values and ensure gender equality. Moving forward, preventive talks will be given and recommendations will be drawn up.

14. There are currently 12 inspectors working in subdivisions of the Ministry of Internal Affairs to prevent domestic violence. They examined 120 complaints in the first three months of 2017, while local police inspectors examined 563 complaints. In the first three months of 2017, 683 complaints were received, of which 132 were against women, 547 were against men and 7 were against minors.

15. At the Academy of the Ministry of Internal Affairs a new training course has been introduced on the prevention of domestic violence. It lasts for 20 academic hours, in addition to 120 hours of optional classes on the elimination of negative gender stereotypes and the prevention of domestic violence.

16. National and international experts held 4 workshops on the subject of specialized training for employees on domestic violence and gender-sensitive activities. Approximately 100 employees of internal affairs agencies attended and participated in the training, and received certificates to that effect.

17. Law enforcement bodies constantly carry out a range of operational, legal and organizational measures intended to prevent, forestall and suppress possible terrorist and extremist activity, as well as its causes. All necessary effective measures are therefore being taken for persons involved, including family members, to return to Tajikistan from areas of armed conflict or military activity. As a result of the measures taken, 17 families (12 men, 17 women, 16 girls and 16 boys) have returned to Tajikistan since 2015, including 2 families in 2017 (3 men, 4 women, 5 girls and 4 boys), along with 61 Tajik citizens who participated, or intended to participate, in armed conflicts in Iraq and Syria. It has been established that there are currently 234 families among the 840 Tajik citizens in Syria, Iraq and other countries with ongoing armed conflicts, of whom 309 are men, 279 are women, 110 are girls and 142 are boys.

Question 7

18. Within the Ministry of Internal Affairs, the department for combating organized crime plays a key role in countering trafficking in persons, assisting victims of trafficking and coordinating the activities of all units at the Ministry. An analysis of offences related to trafficking in minors that have been identified and detected shows the following trend:

Date of the article of the Criminal Code	*2015*	*2016*	*First 3 months of 2017*
Art. 167 (trafficking in minors)	14	7	4

19. An analysis of the victims in criminal cases relating to trafficking in persons shows that the category of citizens at risk could include:

- Orphans;
- Children under guardianship or in the custody of relatives;
- Children (mainly young girls) from disadvantaged families prone to "loose behaviour";
- Children whose parents are unable to provide them with a compulsory nine-year education or who prevent them obtaining it, as well as other young people who do not know their rights and responsibilities, who lack the skills to complete the documentation required for employment or who are in search of higher wages abroad.

20. Victims of trafficking in persons are provided with assistance and the question of their cooperation with law enforcement agencies with the view to identifying and prosecuting the persons who exploited them is resolved. In the event of cooperation, they receive legal assistance in the form of a lawyer's services during the preliminary investigation and trial. Furthermore, on the basis of domestic legislation and the international legal instruments ratified by Tajikistan, particular attention is paid to returning children who have been victims of trafficking in persons to normal life, and they are provided with comprehensive psychological assistance. Their ongoing education must be ensured and assistance is granted for their continued attendance of secondary specialized and higher education institutions.

21. In accordance with the 2006 memorandum on cooperation between the Ministry of Internal Affairs and the International Organization for Migration (IOM), all victims of trafficking in persons who have been traced by law enforcement agencies and who wish to receive rehabilitative care are sent to rehabilitation centres at the IOM mission in Tajikistan.

22. Tajikistan has incorporated the issues of child labour and child trafficking into the National Plan to Combat Trafficking in Persons in Tajikistan 2016-2018, which was approved by a government decision of 27 July 2016. The plan consists of six sections and fifteen measures, including measures on the prevention of trafficking in persons, the criminal prosecution of trafficking in persons, the protection of victims of trafficking in persons and the provision of assistance to them, and combating trafficking in persons, as well as a social partnership to combat trafficking in persons.

23. In order to prevent trafficking in persons and implement the National Plan, in the first quarter of 2017 the Migration Service of the Ministry of Labour, Migration and Employment, together with other actors involved in implementing the above-mentioned Plan at the grassroots level, held 156 meetings, reaching 16,325 people, including migrant workers. Support for the families of migrant workers, and the education and upbringing of children were among the topics discussed at these meetings. In recent years, appropriate measures have been taken towards reintegrating migrant workers who have returned to their homes and families. In 2010, pilot centres were created for the reintegration of migrant workers returning to Tajikistan. After this project was wound up, the functions of the centres were transferred to the employment services. To this end, the Tajik Employment Protection Act was supplemented and amended in 2011, as was in 2012 the government decision of 31 January 2006 on the approval of rules for the provision of consultation services and financial assistance by the State Agency for Social Protection, Employment and Migration to unemployed persons wishing to engage in entrepreneurial activities, under which migrant workers returning to Tajikistan are entitled to microcredit to develop their own businesses. A handbook has been approved on the benefits provided by employment services to migrant workers returning to Tajikistan.

24. From 2012 onwards, steps have been taken under the Tajik Employment Programme to certify the skills of migrant workers returning to Tajikistan and award microcredit for individual entrepreneurship. The Employment for Migrant Workers Programme has been approved with the aim of providing work for migrant workers who are Tajik citizens and banned from entering the Russian Federation. In 2016 and the first quarter of 2017, the Migration Service, together with the Work and Employment Agency, found permanent jobs for 2,163 people out of the total number of individuals temporarily banned from entering the Russian Federation. Furthermore, in order to support migrant workers' families, raise

living standards and prevent trafficking in children, in 2016 and the first quarter of 2017, the Ministry, in cooperation with IOM, awarded over 130 grants to migrant workers banned from entering the Russian Federation, or to their families, under an IOM project.

Question 8

25. Regarding victims of crimes of trafficking in children, it should be noted that, under the Tajik Act on State Protection of Participants in Criminal Proceedings, appropriate security measures can be applied for the victims of offences.

26. A new draft Programme on Reforming the Juvenile Justice System in the period 2017-2021 has recently been drawn up. It provides for the reform of legislation and practices in the juvenile justice system, in accordance with international norms and standards.

Question 9

27. It is not possible to use the Optional Protocol as an instrument for extradition in the absence of bilateral agreements on the extradition of offenders as there is no provision covering extradition procedure or the obligations of States parties regarding the extradition of offenders. In certain cases, this issue can be resolved under other conventions and agreements, in particular the United Nations Convention against Transnational Organized Crime.